

S/N: 09845,577

PATENT

Certificate Under 37 C.F.R. 1.8:

The undersigned hereby certifies that this communication is being deposited in the United States Postal Service, via First Class Mail, in an envelope addressed to: Assistant Commissioner of Patents, BOX NON-FEE, Washington D.C. 20231, on this 10 day of July, 2001.

By:

Name: Michelle Cook

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**Applicant:** Hausken

**Serial No.:** 09/845,577

**Filed:** April 30, 2001

**Title:** SYSTEM AND METHOD FOR  
IDENTIFYING COMPENSATION PLANS

)  
) **Examiner:** Not yet Assigned  
)  
) **Preliminary GAU:** 2164  
)  
) **Atty Docket:** 80581.02 US  
)  
)  
)

### PRELIMINARY AMENDMENT CORRECTING APPLICATION PAPERS

Assistant Commissioner for Patents  
BOX NON-FEE  
Washington, D.C. 20231

Dear Sir:

This is a Preliminary Amendment correcting the informalities identified in the Notice to File Corrected Application Papers mailed June 27, 2001. Part 2 of the Notice is enclosed.

This amendment includes a substitute specification and proposed amended drawings. This Reply and Amendment is filed within the two month time limit set in the above-referenced notice. Therefore, no fee is due.

**I. IN THE SPECIFICATION:**

The tables submitted in previously identified Figs. 4-6 have been incorporated into the specification. Accordingly, Applicant is submitting a substitute specification pursuant to 37 C.F.R. §1.125 (b).

**Statement Of No New Matter**

The substitute specification contains no new matter.

**Marked-Up Copy of Specification**

A marked-up copy of the specification showing the matter being added to and the matter being deleted from the specification of record is submitted herewith.

**II. IN THE DRAWINGS:**

Previously numbered Figs. 4, 5, and 6 have been canceled. Fig. 7 has been renumbered as Fig. 4.

**III. REMARKS**

The Office objected to previously identified Figs. 4-6 as containing excessive text. The tables depicted in those figures have been incorporated into the text as tables 1, 2, and 3. The previously identified Fig. 7 was renumbered as Fig. 4. The specification was amended to conform with the revised drawings.

Consideration of the application based on the amended specification, including drawings, is respectfully requested.

**Amendments To Drawings**

Applicant has submitted amendments to the drawings, including canceling the objected to Figures. Proposed amendments are in red. Pursuant to 37 C.F.R. 1.111, Applicant requests that

the requirement for formal drawings be held in abeyance until allowable subject matter is indicated.

A copy of the proposed amended drawings have not been sent to the Official Draftsman.

#### **Amendments To Specification**

Support for the amendments will be readily apparent from review of the marked-up specification submitted herewith. Some of the amendments are directed toward the amended drawings

#### **IV. CONCLUSION**

Consideration of the instant application as amended is respectfully requested. Please charge any additional fees or credit any overpayment to Deposit Account No. 011-156.

Respectfully submitted,

Dated: July 10, 2001

By: 

John E. Hyatt  
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FIG. 4A

Deleted  
Incorporated  
into Table 1

↙ 90A

In terms of your overall business strategy, how important is to align the personal  
1 financial goals of your key people to the corporate financial goals of the business?

- y Critical to the company's success
- n One of several priorities
- n Advantageous when appropriate
- n Not a significant factor in the company's success

Your response to this question can indicate just how key to the company's success your key people may be and give us insights into the level of commitment between them and the company.

How important is to tie annual benefit rewards directly to your company's annual  
2 financial performance?

- y Critical to the company's success
- n One of several priorities
- n Advantageous when appropriate
- n Not a factor in the company's success

This question offers us clues to interpret your company's philosophy about performance-based compensation and determine what kind of nonqualified plan features correspond to your corporate culture.

How important is it to tie benefit rewards directly to long-term commitment in your  
3 company?

- y Critical to the company's success
- n One of several priorities
- n Advantageous when appropriate
- n Not a factor in the company's success

Like Question 2, your answer here fills in blanks about your corporate culture and indicates how to design a nonqualified benefits plan to reward longevity.

Which statement best describes your key people's reaction to restrictions on  
4 personal, and company, contributions to the 401(k) plan?

- n No one expresses concern about restrictions
- y Some key people express concern about retirement income.
- n There has been strong pressure for the company to find solutions.
- n They seem more concerned about personal after-tax investment strategy.

The degree to which your key people already experience limitations on their ability to defer taxes on their personal retirement savings tells us which of the nonqualified benefit plan types is most responsive to their needs.

How would your key people react to a nonqualified retirement benefit plan that increases their pretax savings and company contribution potential, but with fewer  
5 financial guarantees of a qualified 401(k)?

- n They would enthusiastically utilize it.
- y They would probably find it a valuable addition to their compensation.
- n They would probably not consider it a valuable addition to their compensation.
- n They would not take advantage of it.

This answer helps clarify to what degree the issue of lost tax advantages has become an issue internally.

If your business is family owned, what multigenerational stage of development has  
6 been reached?

- y Founder owns and manages.
- n Founder retired but still controls ownership.
- n Family ownership and key employee have moved to second generation.
- n Family ownership has become widely separated from key employee.

As a long term agreement between company and participant, nonqualified benefits plans are more attractive to key people where a concrete track record of corporate longevity can be demonstrated.

FIG. 4B

90B

Delete;  
Incorporated  
into Table 1

If control and management of the business has moved beyond the founder generation, how is ownership structured?

- y Family ownership
- n Single owner
- n Multiple private shareholders
- n Public company

Even when corporate longevity has been proven, different ownership structure offers different degrees of flexibility in plan design.

What is your timeframe for reviewing the company's continuity and succession plan?

- n Completed review within past 12 months
- n Will review at current year-end
- y Will review at unscheduled future time
- n No formal continuity/succession plan

In companies that have not yet demonstrated the kind of longevity to comfortably support such a long term agreement, the fact that succession issues take a priority position in strategic planning can overcome the lack of history.

What is the legal structure of your company?

- n Sole proprietorship
- y C Corp
- n S Corp
- n Partnership
- n Limited Liability Corporation
- n Non-profit

Some legal structures are more appropriate for nonqualified benefits plans, where others support alternative strategies to achieve the results of nonqualified plans.

How many people encompass your key people?

- n Under 10
- y 10-49
- n 50-100
- n Above 100

The number of potential participants in a nonqualified benefits plan can have a significant impact on design, implementation, and administration alternatives.

Which range of salaries encompasses the largest number of your key people?

- n Under \$75,000
- n \$75,000-100,000
- y \$100,00-250,000
- n Above \$250,000

Similarly, the salary range of potential participants in a nonqualified benefits plan can have a significant impact on design, implementation, and administration alternatives.

What age range encompasses the largest number of your key people?

- n Under 35
- n 35-45
- y 45-55
- n Above 55

Different demographic profiles of your potential plan participants affects both plan design and informal funding decisions.

FIG. 4C

90C

Delete;  
Incorporated  
into Table 1

Which phrase best characterizes your compensation position within your industry and your geographic area?

- ☐ Extremely generous
- ☒ Competitive and fair
- ☐ Right in the middle
- ☐ Below average

While all four basic types of nonqualified plans have an impact on your compensation position, each alternative addresses the issue differently.

Which phrase best characterizes your fringe benefits position within your industry and your geographic area?

- ☐ Extremely generous
- ☒ Competitive and fair
- ☐ Right in the middle
- ☐ Below average

If your company has already taken a definitive position in providing benefits to your entire employee population, your choice of a nonqualified benefits plan alternative may need to remain consistent with that position.

How harmful has key employee turnover been to your corporate goals in the past five years?

- ☐ Key employee turnover has seriously affected the company's success.
- ☐ Key employee turnover has created many problems and gaps.
- ☒ Key employee turnover has not created many problems or gaps.
- ☐ Key employee turnover has not been an important factor in the company's success.

Turnover among key employees may be influenced by issues nonqualified benefits plans are designed to address, and therefore variations in turnover experience suggest different plan design directions.

How likely is it that your key employee group will expand significantly in the next five years?

- ☐ Extremely likely to expand.
- ☒ Planned but unpredictable expansion.
- ☐ Not very likely to expand.
- ☐ Likely to be reduced.

While nonqualified benefits plans are inherently flexible and responsive to change, if growth can be projected reliably, then some plan designs will be more favorable.

Which statement best describes how competitive key employee recruiting can be within your industry and within your geographic area?

- ☐ We work in an extremely competitive recruiting environment.
- ☐ Competition can be fierce under certain conditions.
- ☒ Competition is one manageable factor among many in recruiting.
- ☐ Competition has negligible effect on recruiting.

Recruiting highly trained management and technical people is often driven by long term compensation and benefits commitments from the company; therefore, in competitive situations some design alternatives will be more favorable.

How important is it that every compensation and benefit program be currently deductible to the corporation?

- ☐ Not an important decision factor.
- ☒ Desirable but not necessary.
- ☐ Among the top decision factors.
- ☐ Absolutely important.

Nonqualified plans are based on taking advantage of one kind of tax advantage while trading off another, and therefore your company's tax strategies will affect how tax advantages for key people can be structured.

FIG. 40

← 90D

Delete;  
Incorporated into  
Table 1

19 How important is it that a retirement benefit program have a vesting schedule?

- n Absolutely important.
- n Among the top decision factors.
- y Desirable but not necessary.
- n Not an important decision factor.

In some companies and some industries, the long-term commitment of key people is a strategic planning issue, and a vesting schedule can be either a critical or an unimportant factor in the choice of plans.

How important is it that a retirement benefit program permit participant asset allocation?

- 20
- n Absolutely important.
  - n Among the top decision factors.
  - y Desirable but not necessary.
  - n Not an important decision factor.

There is a wide spectrum of control over investment strategy available among the basic plan designs, and whether your key people want a more active role or are content to let the company make these decisions with its advisors plays an important part in plan design.

Delete;  
Incorporated into  
Table 2

FIG. 5A

Scoring

Def  
Comp

Def  
Comp

DC  
SERP

DB  
SERP

Total Weighting

Def  
Comp

Def  
Comp

DC  
SERP

DB  
SERP

Question  
Weights  
(1-5)

Answer Weights

Def  
Comp

Def  
Comp

DC  
SERP

DB  
SERP

1

16 16 16 16  
0 0 0 0  
0 0 0 0  
0 0 0 0

16 16 16 16  
8 8 8 8  
4 4 4 4  
0 0 0 0

4

4 4 4 4  
2 2 2 2  
1 1 1 1  
0 0 0 0

2

0 0 12 9  
0 0 0 0  
0 0 0 0  
0 0 0 0

0 0 12 9  
0 0 6 3  
0 0 3 9  
0 0 0 0

3

0 0 4 3  
0 0 2 1  
0 0 1 3  
0 0 0 0

3

0 6 9 12  
0 0 0 0  
0 0 0 0  
0 0 0 0

0 6 9 12  
0 3 6 9  
0 3 6 6  
0 0 0 0

3

0 2 3 4  
0 1 2 3  
0 1 2 2  
0 0 0 0

4

0 0 0 0  
4 8 0 0  
0 0 0 0  
0 0 0 0

0 0 0 0  
4 8 0 0  
8 12 0 0  
12 16 0 0

4

0 0 0 0  
1 2 0 0  
2 3 0 0  
3 4 0 0

5

0 0 0 0  
10 10 0 0  
0 0 0 0  
0 0 0 0

20 20 0 0  
10 10 0 0  
5 5 0 0  
0 0 0 0

5

4 4 0 0  
2 2 0 0  
1 1 0 0  
0 0 0 0

6

2 2 2 2  
0 0 0 0  
0 0 0 0  
0 0 0 0

2 2 2 2  
4 4 4 4  
8 8 8 8  
6 6 6 6

2

1 1 1 1  
2 2 2 2  
4 4 4 4  
3 3 3 3

FIG. 5A



Delete,  
Incorporated  
into Table 2

FIG. 5B

94B

100B

96B

98B

	Scoring				Total Weighting				Question Weights (1-5)	Answer Weights			
	Def Comp	Def Comp Match	DC SERP	DB SERP	Def Comp	Def Comp Match	DC SERP	DB SERP		Def Comp	Def Comp Match	DC SERP	DB SERP
7	4 0 0 0	4 0 0 0	4 0 0 0	4 0 0 0	4 2 6 8	4 2 6 8	4 2 6 8	4 2 6 8	2	2 1 3 4	2 1 3 4	2 1 3 4	2 1 3 4
8	0 0 -4 0	0 0 -4 0	0 0 0 0	0 0 0 0	8 4 -4 -8	8 4 -4 -8	6 2 0 -6	6 2 0 -6	2	4 2 -2 -4	4 2 -2 -4	3 1 0 -3	3 1 0 -3
9	0 8 0 0 0 0	0 8 0 0 0 0	0 8 0 0 0 0	0 8 0 0 0 0	2 8 6 4 4 0	2 8 6 4 4 0	2 8 6 4 4 2	2 8 6 4 4 2	2	1 4 3 2 2 0	1 4 3 2 2 0	1 4 3 2 2 1	1 4 3 2 2 1
10	0 3 0 0	0 4 0 0	0 2 0 0	0 1 0 0	3 3 3 3	4 4 4 4	2 2 2 2	1 1 1 1	1	3 3 3 3	4 4 4 4	2 2 2 2	1 1 1 1
11	0 0 9 0	0 0 9 0	0 0 9 0	0 0 9 0	0 0 9 12	0 0 9 12	3 6 9 12	3 6 9 12	3	0 0 3 4	0 0 3 4	1 2 3 4	1 2 3 4
12	0 0 9 0	0 0 12 0	0 0 9 0	0 0 9 0	6 6 9 6	6 9 12 9	9 9 9 9	0 3 9 12	3	2 2 3 2	2 3 4 3	3 3 3 3	0 1 3 4

FIG. 5B "Deleted"

Delete; incorporated into Table 2

FIG. 5C

94c

100c

96c

98c

	Scoring				Total Weighting				Question Weights (1-5)	Answer Weights			
	Def Comp	Def Comp Match	DC SERP	DB SERP	Def Comp	Def Comp Match	DC SERP	DB SERP		Def Comp	Def Comp Match	DC SERP	DB SERP
13	0	0	0	0	8	8	8	8	2	4	4	4	4
	4	4	4	4	4	4	4	4		2	2	2	2
	0	0	0	0	2	2	2	2		1	1	1	1
	0	0	0	0	2	4	6	6		1	2	3	3
14	0	0	0	0	8	8	8	8	2	4	4	4	4
	4	4	4	4	4	4	4	4		2	2	2	2
	0	0	0	0	2	2	2	2		1	1	1	1
	0	0	0	0	2	4	6	6		1	2	3	3
15	0	0	0	0	20	20	20	20	5	4	4	4	4
	0	0	0	0	10	10	10	10		2	2	2	2
	5	5	5	5	5	5	5	5		1	1	1	1
	0	0	0	0	0	0	0	0		0	0	0	0
16	0	0	0	0	12	12	12	9	3	4	4	4	3
	9	9	9	9	9	9	9	9		3	3	3	3
	0	0	0	0	6	6	9	9		2	2	3	3
	0	0	0	0	3	3	9	9		1	1	3	3
17	0	0	0	0	12	12	12	12	3	4	4	4	4
	0	0	0	0	9	9	9	9		3	3	3	3
	6	6	9	9	6	6	9	9		2	2	3	3
	0	0	0	0	3	3	9	9		1	1	3	3
18	0	0	0	0	8	8	8	8	2	4	4	4	4
	6	6	6	6	6	6	6	6		3	3	3	3
	0	0	0	0	4	4	4	4		2	2	2	2
	0	0	0	0	2	2	2	2		1	1	1	1

TOP SECRET

FIG. 5D

Scoring					Total Weighting					Question Weights (1-5)				
Def	Comp	DC	DB		Def	Comp	DC	DB		Def	Comp	DC	DB	
Comp	Match	SERP	SERP		Comp	Match	SERP	SERP		Comp	Match	SERP	SERP	
19										3				
0	0	0	0	0	0	12	12	12		0	4	4	4	
0	0	0	0	0	0	9	9	9		0	3	3	3	
0	6	6	6	6	0	6	6	6		0	2	2	2	
0	0	0	0	0	9	3	3	3		0	1	1	1	
20										3				
0	0	0	0	0	12	12	12	0		4	4	4	0	
0	0	0	0	0	9	9	9	0		3	3	3	0	
6	6	6	6	6	6	6	6	0		2	2	2	0	
0	0	0	0	0	3	3	3	0		1	1	1	0	
Total Score:					101	121	120	113						

Delete;  
Incorporated into Table 2

FIG. 6 A

Purpose

592 A

1 Alignment is a very significant (4) issue, most relevant to DC plans issue, and more relevant the greater the degree of participant contribution.

2 Annual company provided rewards is a moderately important (3) issue, relevant to DC or DB SERP plans, and has no relevance to participant

3 Long-term company provided rewards is a moderately important (3) issue, relevant to DC or DB SERP plans, and has minimal relevance to

4 Limitations to 401(k) is a very significant (4) issue and relevant to participant contributions.

5 Supplemental 401(k) participation is a most significant (5) issue and relevant to participant contributions.

6 Corporate legacy is a less significant (2) issue but has relevance to how all plans are communicated to participants.

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Incorporated  
into Table 3

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FIG. 6B

Purpose

92B

7

Corporate legacy is a less significant (2) issue but has relevance to how all plans are communicated to participants.

8

Corporate planning is a less significant (2) issue but can impact participant confidence and participation in participant contribution plans.

9

Legal structure is a less significant (2) issue but can impact delivery on some plans.

10

Participant size is a least significant (1) issue but can impact underwriting and management of life insurance contracts.

11

Compensation is of medium significance (3) but can impact participation in participant contribution plans.

12

Age is of medium significance (3) but can impact participation in defined benefit plans.

Delete;  
incorporated  
into Table 3

FIG. 6C

Purpose

92C

13 Compensation position is a less significant (2) issue but can impact how different types of plans are perceived by the participants.

14 Fringe benefits position is a less significant (2) issue but can impact how different types of plans are perceived by the participants.

Delete;  
incorporated into  
Table 3

15 Turnover is a most significant (5) issue and all supplemental benefits can reduce turnover.

16 Turnover is a most significant (5) issue and all supplemental benefits can reduce turnover.

17 Recruiting is of medium significance (3) and all supplemental benefit can enhance recruitment.

18 Deductibility is a less significant (2) issue but gives insight into how the company makes financial decisions.

FIG. 6D

Purpose

19

Vesting is of medium significance (3) but gives insight into how the company views "handcuff" periods.

20

Asset allocation is of medium significance (3) but gives insight into how the company views participant control.

92D

Delete;  
Incorporated  
into Table 3